GRAY
TELEVISION, INC.

ORIGINAL

Robert A. Beizer
VP - Law & Development

April 7, 2003

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Permitted *Ex Parte* Presentation, 2002 Biennial Regulatory Review — Review of the Commission's Broadcast Ownership Rules, MB Docket No. 02-277

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's rules. I hereby submit this notice of a permitted *ex parte* presentation in the above-referenced proceeding.

On April 4,2003, Michael D. Weeks, President/General Manager, WITN-TV; Christopher D. Baker, Executive Vice President/General Manager, WVLT-TV; James R. Bayes of Wiley Rein & Fielding LLP; and the undersigned met with Commissioner Kathleen Q. Abernathy and her Legal Advisor, Stacy Robinson. The meeting participants discussed how the need for regulatory relief from local television ownership restrictions is most acute in mid-sized and smaller markets, as set forth in the attached talking points and related materials, and expressed views consistent with those detailed in the Comments and Reply Comments filed by Gray Television, Inc. in this docket.

If you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,

Robert A. Beizer

Robert A. Beizer

Attachments

cc: Commissioner Kathleen Q. Abernathy
Stacy Robinson
Linda Senecal (via hand delivery and email)
Mania Maghdadi (via hand delivery and email)

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THE NEED FOR RELIEF FROM LOCAL TELEVISION OWNERSHIP RESTRICTIONS IS MOST ACUTE IN MID-SIZED AND SMALLER MARKETS

- Gray Television, Inc. ("Gray") owns and operates **29** television broadcast stations – including **15** CBS affiliates, **7** ABC affiliates, and **7** NBC affiliates – as well as 4 daily newspapers. Gray is the nation's largest owner/operator of stations in markets 50 – 200 and is well aware of both the financial pressures on mid-sized and smaller market stations and the need for those stations to achieve operating efficiencies in order to remain viable competitors.
- Gray believes that it is critically important that the FCC eliminate the current local television ownership rule or, at a minimum, relax it to a sufficient degree to permit meaningful relief in mid-sized and smaller markets. (Virtually all of the Gray TV properties are in markets with fewer than 8 independently owned stations.)
- Since the TV duopoly rule first was adopted, there has been a tremendous increase in not only the sheer number, but also the types, of media outlets to which consumers can turn for news and information: television stations, radio stations, newspapers, cable networks, alternative MVPDs, the Internet, etc. And as the result of continued technological innovation, this expansion can only be expected to continue. This vibrantly competitive marketplace ensures that the FCC's goals of competition and diversity will continue to be served. And as discussed below, the Commission's localism objectives will be furthered by allowing strategic combinations of local TV properties.
- The broadcast television industry today faces increasingly difficult financial conditions that are the result of a number of factors, including the following:
  - the amount of network compensation is declining;
  - competition for advertising revenues – from both "old" and "new" media outlets is on the rise;
  - programming costs are increasing;
  - the costs associated with the production of news and other programming of interest to the local community are climbing; and
  - substantial investment is required to complete the transition to digital broadcasting.
- These financial pressures are felt disproportionately by mid-sized and smaller market stations. As a rule, these stations are not able to charge as much for advertising spots, but they are ***not*** significantly less expensive to operate; many of the costs involved – news production budgets, power bills, DTV tower construction and equipment costs, etc. – generally are the same regardless of market size.

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(continued...)

- Moreover, although local news historically has been an important and reliable source of ad revenue, even that is changing. As competition from other outlets has increased, viewership has declined. This, in turn, has forced news directors to find new ways to decrease costs. which only accelerates the downward spiral:
  - lower ratings lead to budget cuts;
  - smaller news budgets result in lower-quality news production facilities (robotic studio cameras, significantly automated control systems, scaled-back production departments, etc.) and more sterile-looking newscasts (via centralized news functions in regional hubs, increased reliance on network or syndicated (non-local) features and packages, etc.) – not to mention job cuts; and
  - decreased news production capabilities significantly impede stations' ability to serve their communities (*e.g.*, by eliminating the flexibility to respond to breaking news and by constraining stations' ability to produce true local content) – and, thus, attract viewers.
- The FCC cannot and should not expect to counteract these market forces by imposing inflexible limits on station ownership. In fact, the best way to ensure the continued availability of local television newscasts and other public service programming is to permit broadcasters to achieve the cost savings and operational synergies made possible by joint ownership.
- Absent relief specifically targeting smaller market stations, Wall Street may well turn its back on those stations, impeding access to needed capital.
- Permitting TV duopolies in smaller markets would provide consumers with significant public interest benefits, including in particular expanded local content and sustainable local news operations. Moreover, Gray believes that concerns with respect to the possible impact on diversity that such critical regulatory relief would have are misdirected.
  - Given the "downward spiral" described above. a duopoly that leads to efficiencies and synergies allowing both of the stations in the combination to provide improved local news and/or other local content would serve to preserve and *increase* diversity.
  - The owner of two stations in the same market would have strong economic incentives to differentiate the programming provided by those stations – including news and other local programming – in order to capture different audience segments.
  - Further, in a situation where one or both of the stations in a potential duopoly is/are providing scaled-back news and local programming operations due to financial considerations, the combination of those stations can create efficiencies and synergies that enable both stations to improve the quality of – and the amount of local content in – such broadcasts.

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GRAY COMMUNICATIONS MARKET CHART

MARKET NAME	RANK	NUMBER OF COMMERCIAL STATIONS	NUMBER OF NON-COMMERCIAL STATIONS	TOTAL NUMBER OF STATIONS
Knoxville, TN	62	7	2	9
Wichita-Hutchinson, KS	65	10	3	13
Lexington, KY	66	7	4	11
Omaha, NE	75	4	3	7
Madison, WI	85	5	1	6
Colorado Springs, CO	91	4	1	5
Waco-Temple-Bryan, TX	94	5	3	8
Lincoln-Hastings Kearney, NE	102	6	4	10
Greenville-New Bern-Washington, NC	106	7	3	10
Reno, NV	110	7	1	8
Lansing,, MI	111	5	1	6
Tallahassee, FL	113	5	1	6
Augusta, GA	114	4	2	6
La Crosse-Eau Claire, WI	127	6	1	7
Rockford, IL	132	4	0	4
Wausau-Rhinelander, WI	137	6	2	8
Topeka, KS	138	3	1	4
Panama City, FL	159	5	1	6
Sherman, TX-Ada, OK	160	2	0	2
Dothan, AL	172	3	0	3
Harrisonburg, VA	178	1	1	2
Bowling Green, KY	181	2	2	4

MARKET NAME	RANK	NUMBER OF COMMERCIAL STATIONS	NUMBER OF NON-COMMERCIAL STATIONS	TOTAL NUMBER OF STATIONS
Meridian, MS	**185**	3	1	**4**
Parkersburg, WV	**186**	1	0	1

Source: Broadcasting and Cable Yearbook 2002-2003.

Note: Total number of stations does not include satellite stations.